

VTI-114.9 B (C)RESPONSE TO RESTRICTION MAILED MARCH 21, 2005;

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claims to the elected species, Applicants traverse this requirement. Such a requirement would be improper, for the reasons stated in MPEP §803.02, first paragraph.

REMARKS

The Examiner has made Claims 1-7 subject to a restriction requirement under 35 U.S.C. 121. The Examiner has divided Claims 1-24 into 4 groups, a summary of which follows:

Restriction is only proper if the restricted inventions are independent and patentably distinct (35 USC §121) and there is a *serious burden* placed on an Examiner if restriction is not required (MPEP 803). The burden is on an Examiner to provide reasons and/or examples to support any conclusions of patentable distinctness between the restricted inventions (MPEP 803). Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the restricted inventions and that no serious burden is placed on the Examiner if restriction is not required.

Applicants traverse the Examiner's reliance on separate classification for the restriction requirement. The second and third paragraphs of §808.02 provide that when the related inventions are shown to be distinct under the criteria of MPEP §806.05(c) - §806.05(i) the Examiner may insist on a restriction if Examiner can demonstrate that the separate subjects have different classifications. In this application the Examiner has not shown that the instant invention is composed of distinct related inventions under the criteria of MPEP § 806.05(c)-806.05(i). Therefore, Applicants submit the Examiner can not reliably use separate classification as a basis for the restriction.

The last paragraph of MPEP § 808.02 states that where the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions. According to the Examiner's present classification scheme, without acknowledging the correctness of its determination, Groups I-V are all in class 544. As such, Applicant reads the classifications and the fields of search to be the same. For these reasons, Applicant request the restriction be withdrawn or reconsidered.

For the above reasons, Applicant submit that the restriction by the Examiner is improper and request that the restriction be withdrawn or reconsidered.

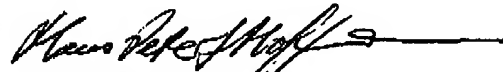
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Applicant requests a three-month extension of time up to and including July 21, 2005. The Commissioner is authorized to charge the requisite small entity fee to Deposit Account No. 11-0404.

Respectfully submitted,



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